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Right to food

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the interim report of the Special Rapporteur on the right to food, Hilal Elver, submitted pursuant to General Assembly resolution 70/154.

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Interim report of the Special Rapporteur on the right to food

Summary

The present report, submitted pursuant to General Assembly resolution 70/154, is dedicated to reiterating the importance of a rights-based approach to "adequate food", that is, nutritious food for all. It discusses the underlying factors affecting nutrition, including industrial food systems, unhealthy eating environments and the growing threat of non-communicable diseases, as well as the harmful effects of trade liberalization and unregulated marketing of food products. The Special Rapporteur outlines nutrition governance at the global level and considers its shortcomings, and recommends taking a human rights-based approach to combating malnutrition at both the global and national levels.

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I. Introduction

1. Malnutrition, in all its forms, has become a universal challenge. Today, nearly 800 million people remain chronically undernourished, more than 2 billion suffer from micronutrient deficiencies, and another 600 million are obese. These three forms of malnutrition coexist within most countries, communities and even individuals. Ensuring the right to adequate food extends far beyond merely ensuring the minimum requirements needed for survival and includes access to food that is nutritionally adequate. Increasingly, the right to adequate nutrition is being recognized as an essential element of the right to food and the right to health.

2. The underlying causes of malnutrition are complex and multidimensional, and access to nutritious food is often a key indicator of socioeconomic inequality. Women and children are particularly sensitive to malnutrition, while poverty, gender inequality and lack of access to adequate sanitation, health and education services are aggravating factors. Today's food systems, which are dominated by industrial production and processing, as well as trade liberalization and aggressive marketing strategies, are fostering unhealthy eating habits and creating a dependence on highly processed, nutrient-poor foods. Unequal access to and control over resources, as well as unsustainable production and consumption patterns, which lead to environmental degradation and climate change, also contribute to the malfunctioning of food systems.[1]

3. Recognizing the growing threat of malnutrition in all its forms and its negative impacts on economic development, universal health and efforts to reduce inequality, the international community has taken major initiatives to ensure global policy action. The World Health Organization (WHO) global targets to improve maternal, infant and young child nutrition by 2025, the Global Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2020 and the political commitments made at the Second International Conference on Nutrition, in 2014, to ensure the right of everyone to safe, sufficient and nutritious food are encouraging responses. It is now also recognized that nutrition plays a crucial role in fulfilling the 2030 Agenda for Sustainable Development.

4. Yet the world is not on track to reach these global targets.[2] It is time to translate commitment into action. The United Nations Decade of Action on Nutrition, proclaimed in April 2016, presents a unique opportunity to ensure a coherent, inclusive and transparent response to malnutrition, embedded within human rights. Applying a human rights-based approach to nutrition policy acknowledges rights holders and the duty of Governments to refrain from actions that negatively affect the right to nutrition and to implement strategies that tackle malnutrition's root causes. Recognizing that private sector involvement in responding to malnutrition cannot be ignored, it is necessary to establish suitable safeguards to prevent negative corporate influences on nutrition governance. States should be supported in their efforts to regulate and hold the food industry accountable, to encourage behavioural changes in the population and to improve access to nutritious food through social protection. Finally, it is crucial to recognize

[1] The Special Rapporteur intends to dedicate a future report to the effects of climate change on nutrition.

[2] International Food Policy Research Institute, *Global Nutrition Report 2016: From Promise to Impact — Ending Malnutrition by 2030* (Washington, D.C., 2016), p. xviii.

that malnutrition will continue to persist, unless a coordinated effort is made to shift from unsustainable industrial food systems to ones that are "nutrition sensitive".

5. The Special Rapporteur wishes to acknowledge the important contributions made to this topic by the former Special Rapporteur on the right to food and the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in their respective reports on the right to an adequate diet (A/HRC/19/59) and on unhealthy foods, non-communicable diseases and the right to health (A/HRC/26/31).

A. Malnutrition in all its forms

6. Malnutrition includes undernutrition, micronutrient deficiency and conditions associated with excess intake and nutritional imbalance. Undernutrition is a consequence of consuming too few essential nutrients, caused by either insufficient food intake or repeated infectious diseases. The most basic kind of undernutrition is protein energy malnutrition, which in its acute form leads to wasting. Identifying wasting in children is crucial because the condition is reversible, if appropriately addressed. In its chronic form, it is caused by sustained poor dietary intake or repeated infections during the first 1,000 days of a child's life and can lead to stunting. Stunting is irreversible and leads to shortness in stature, immediate and long-term morbidity and mortality and problems with cognitive functioning.[3]

7. Micronutrient deficiency describes a condition in which there is a lack or shortage of vitamins and minerals. Also referred to as "hidden hunger", it increases vulnerability to infection, birth defects and impaired development and can lead to premature death. For example, iron deficiency leads to anaemia, vitamin A deficiency weakens the immune system, and iodine deficiency interferes with brain development.[4]

8. "Unbalanced nutrition" occurs when the body is exposed to too much dietary energy and leads to overweight and obesity. It may result from eating too much or too many of the wrong things, as well as insufficient exercise, and can lead to an increased risk of heart disease, hypertension, diabetes and diet-related cancers.[5]

9. Traditionally, undernutrition and "hidden hunger" were considered specific to the developing world, while obesity was commonly perceived to mostly affect developed countries. It is now recognized that different forms of malnutrition coexist within most countries. Obesity rates are increasing in developing nations that are exposed to globalization while undergoing economic transition and urban migration. This is part of the global "nutrition transition", which is seeing a rise in consumption of energy-dense yet nutrient-poor foods, coupled with more sedentary lifestyles. As a consequence, many countries are now confronted with not only undernutrition but also rising rates of obesity.[6]

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[3] World Food Programme (WFP), "Hunger glossary", available from www.wfp.org/hunger/glossary; WFP, "Types of malnutrition", available from www.wfp.org/hunger/malnutrition/types.

[4] WFP, "Types of malnutrition".

[5] WHO, "Obesity and overweight", fact sheet, June 2016.

[6] Bryan L. McDonald, "Food as a key resource for security and stability: implications of changes in the global food system 1950-2000", *Penn State Journal of Law and International Affairs*, vol. 3, No. 2 (2015), pp. 42-55.

B. Nutrition-sensitive groups

1. Women

10. Women are more vulnerable to malnutrition than men because of different physiological requirements. Although women require 35 per cent less dietary energy per day than men, they need at least the same amount of nutrients. Consequently, a woman's ideal diet contains significantly more nutrients than those of a male counterpart.

11. Women who are lactating and pregnant require an even more nutrient-rich diet. To ensure the health of the fetus, a diet consisting of at least 20 per cent protein and higher levels of iron, folate and calcium is essential. Malnourished mothers are more likely to give birth to underweight babies, who in turn are 20 per cent more likely to die before the age of 5.[7] Diets that consist of less than 6 per cent protein in utero have been linked with many deficits, including decreased brain weight, obesity and impaired brain communication.[8]

2. Children

12. The first 1,000 days of a child's life determines a person's physical and intellectual development. Children receiving appropriate nutrition during this window are reportedly 10 times more likely to overcome life-threatening childhood diseases and likely to complete 4.6 additional schooling levels and to raise healthier children themselves.[9] The stages of a child's development are cumulative, and inadequate nutrition at an early stage can have lasting negative impacts, setting the child on a higher trajectory of risk of malnutrition throughout life. The Committee on the Rights of the Child, in its general comment No. 15, noted that understanding the life course was essential in order to appreciate how health problems in childhood affected public health in general.

13. WHO has concluded that malnutrition is the underlying contributing factor in about 45 per cent of all child deaths.[10] While the world has made progress in addressing undernutrition, for example by reducing stunting by more than a third since 1990, this progress is not fast enough. In 2014, there were 159 million stunted and 50 million wasted children in the world,[11] and by 2030, stunting is expected to affect 129 million children.[12]

14. At the same time, there were 41 million overweight children under the age of 5.[11] If this trend continues, 70 million infants and young children will be overweight or

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[7] WFP, "Women and hunger: 10 facts". Available from www.wfp.org/our-work/preventing-hunger/focus-women/women-hunger-facts.

[8] Food and Agriculture Organization of the United Nations (FAO), *The State of Food Insecurity in the World 2000: Food Insecurity. When People Live with Hunger and Fear Starvation* (Rome, 2000), p. 11.

[9] John Hoddinott and others, "Adult consequences of growth failure in early childhood", *The American Journal of Clinical Nutrition*, vol. 98, No. 5 (November 2013). See also 1,000 Days, "Why 1,000 days", available from http://thousanddays.org/the-issue/why-1000-days.

[10] WHO, "Children: reducing mortality", fact sheet, January 2016. Available from www.who.int/mediacentre/factsheets/fs178/en.

[11] United Nations Children's Fund (UNICEF), WHO and World Bank Group, "Levels and trends in child malnutrition: key findings of the 2015 edition", September 2015.

[12] Save the Children, *Unequal Portions: Ending Malnutrition for Every Last Child* (London, 2016), p. v.

obese by 2025.[13] Economic and cultural factors contribute to childhood obesity. Energy-dense foods are often more affordable and aggressively marketed towards children, while some cultures may associate higher weights in children with being healthy.

15. There are significant differences in malnutrition rates between countries. In 2014 almost all wasted children lived in Asia and Africa, while stunting affected predominantly Asia, as well as Africa. In 2013, it was estimated that close to 31 million overweight children lived in developing countries.[14]

3. Importance of breastfeeding

16. Breastfeeding is a powerful influence on child survival and development and prevention of child malnutrition. It provides optimal nutrition for young infants, reducing the incidence and severity of infectious diseases and contributing to obesity prevention. Breastfed babies are protected from illnesses through the mother's antibodies, while those who are not are exposed to increased chances of malnutrition, non-communicable diseases and suboptimal cognitive development. In addition, infant formula and other breast milk substitutes can cause poor growth or illness if water quality and hygiene standards are not met.

17. WHO recommends breastfeeding within one hour of birth and exclusive breastfeeding for the first six months of life. Nutritionally adequate and safe complementary foods should be introduced at 6 months of age, together with continued breastfeeding up to 2 years of age or beyond. Yet only about 36 per cent of infants between 0 and 6 months old are exclusively breastfed.[15] In high-income countries, fewer than one in five infants are breastfed for 12 months, and only two out of three children between 6 months and 2 years of age receive breast milk in low- and middle-income countries. These rates have not improved in two decades.[16] In addition, few children receive nutritionally adequate and safe complementary foods. A total of 823,000 children's lives could be saved yearly if all children between 0 and 23 months were optimally breastfed.[17] One of the major obstacles to breastfeeding is the misleading marketing by baby food companies of breast milk substitutes and the lack of corporate accountability for the adverse consequences of such abuses.

II. Underlying factors of malnutrition

A. Economic and social determinants

18. In the Rome Declaration on Nutrition, adopted in 2014, States recognized that the root causes of malnutrition were complex and multidimensional. They include

[13] WHO, "Facts and figures on childhood obesity", October 2014, available from www.who.int/end-childhood-obesity/facts/en; WHO, "Obesity and overweight" (see footnote 5).

[14] WHO, "WHO Global Strategy on Diet, Physical Activity and Health: childhood overweight and obesity". Available from www.who.int/dietphysicalactivity/childhood/en.

[15] WHO, "Infant and young child feeding", fact sheet No. 342, January 2016.

[16] WHO, "Maternal, newborn, child and adolescent health: increasing breastfeeding could save 800,000 children and US$ 300 billion every year", January 2016. Available from www.who.int/maternal_child_adolescent/news_events/news/2016/exclusive-breastfeeding/en.

[17] "Breastfeeding: achieving the new normal", *The Lancet*, vol. 387, No. 10017 (January 2016).

social, economic, political and cultural determinants. Poverty, social exclusion, gender inequality, low socioeconomic status and lack of control over productive resources, for example land-grabbing and seed patenting, are all major contributors to malnutrition. Similarly, malnutrition is aggravated by poor sanitation and the absence of safe drinking water and adequate housing, as well as a lack of education, health and social protection services.

19. Poverty and inequality are drivers of obesity and micronutrient deficiency, in addition to undernutrition. Low-income populations are particularly vulnerable to obesity. Processed foods tend to be highly accessible and relatively cheap and can be stored for long periods without spoiling. In the United States of America for instance, low-income neighbourhoods often lack food retailers that sell fruits, vegetables, whole grains and alternative low-fat options.[18] Unable to afford healthier food options, individuals may become overreliant on poor-quality foods, essentially being forced to choose between economic viability and nutrition and exposed to "double malnutrition".[19]

20. Women are responsible for much of the food cultivation and preparation of family meals, but they disproportionately lack access to adequate food and are more vulnerable to malnutrition. In its general recommendation No. 34, the Committee on the Elimination of Discrimination against Women noted that rural women were among those most exposed to malnutrition and hunger. Patriarchal norms contribute to gender inequality, with women facing systemic discrimination in accessing land and natural resources, decision-making, education and health-care services and experiencing increased vulnerability to violations of their sexual and reproductive rights. Such factors impede their ability to provide adequately nutritious foods for themselves and their families, leading to intergenerational cycles of malnutrition.[20]

B. Impact of food systems

21. In the Rome Declaration on Nutrition, it was acknowledged that current food systems were being increasingly challenged to provide adequate, safe, diversified and nutrient-rich food for all that contributed to healthy diets due to, inter alia, constraints posed by resource scarcity and environmental degradation, as well as by unsustainable production and consumption patterns, food losses and waste, and unbalanced distribution.

22. Food systems include production, processing, transport and consumption of food and are shaped by political, environmental, cultural, and socioeconomic factors. The industrial food system currently dominates the world. It focuses on increasing

[18] Lucy M. Candib, "Obesity and diabetes in vulnerable populations: reflection on proximal and distal causes", *Annals of Family Medicine*, vol. 5, No. 6 (November 2007); Food Research and Action Center, "Why low-income and food-insecure people are vulnerable to obesity", available from http://frac.org/initiatives/hunger-and-obesity/why-are-low-income-and-food-insecure-people-vulnerable-to-obesity.

[19] Michael Via, "The malnutrition of obesity: micronutrient deficiencies that promote diabetes", *ISRN Endocrinology*, vol. 2012 (2012).

[20] Mafalda Galdames Castro and Maria Daniela Nuñez Burbano de Lara, "Gender and food sovereignty: women as active subjects in the provision of food and nutrition", in *Right to Food and Nutrition Watch 2015: Peoples' Nutrition Is Not a Business* (2015); WFP, "Women and hunger" (see footnote 7); Save the Children, *State of the World's Mothers 2012: Nutrition in the First 1,000 Days* (2012), p. 11.

food production and maximizing efficiency at the lowest possible economic cost and relies on industrialized agriculture, including monocropping and factory farming, industrial food processing and mass distribution and marketing. Reflecting their affordability, availability and aggressive marketing strategies, industrialized food products constitute a very significant portion of the world's food sales.[21]

23. The impact of industrial food systems on nutrition and public health is alarming. Monocropping depends heavily on chemical inputs such as synthetic fertilizers and pesticides, while animals grown on factory farms are given growth hormones and antibiotics. The food processing industry uses preservatives, artificial colourants, additives and other chemicals in order to enhance the appearance, flavour and shelf life of food products. Ultraprocessed foods may also contain high levels of sodium, sugar, trans-fats and saturated fats, so that they are energy dense yet lacking in nutritional value.[22]

C. Unhealthy eating habits and non-communicable diseases

24. Diets based on highly processed "denatured" foods contribute to non-communicable diseases, which are shortening the human lifespan. According to WHO, such diseases are collectively responsible for almost 70 per cent of all deaths worldwide, and this is expected to rise to 75 per cent by 2020.[23] The consumption of unhealthy foods has been determined to be an important factor that increases the risk of non-communicable diseases, reinforcing the damage done by tobacco use, alcohol consumption and physical inactivity.[24]

25. Increases in unhealthy eating habits are outpacing increases in healthy ones throughout most of the world. While improvements in diet quality have been greatest in high-income nations, people living in many of the wealthiest countries still have among the poorest-quality diets in the world, because they have some of the highest consumption rates of unhealthy food. An alarming pattern is also emerging in formerly low-income countries as they become richer.[25]

26. Increased meat, sodium, sugar and fat consumption are causing diets to become less healthy. High sodium consumption raises blood pressure, raising the risks of heart disease and strokes, while excessive sugar consumption is associated with weight gain. While meat and other livestock products provide high-value protein and are sources of micronutrients, their overconsumption leads to excessive intakes of fat and sodium. As early as 2002, WHO recommended moderating processed meat consumption to reduce the risk of colorectal cancer and classified processed meat as carcinogenic to humans (Group 1). The Global Burden of Disease

[21] A/HRC/26/31, paras. 5-6.

[22] Marion Nestle, *Food Politics: How the Food Industry Influences Nutrition and Health*, revised ed. (Los Angeles, California, University of California Press, 2013); Rob Moodie and others, "Profits and pandemics: prevention of harmful effects of tobacco, alcohol, and ultraprocessed food and drink industries", *The Lancet*, vol. 381, No. 9867 (February 2013).

[23] Interview with Fumiaki Imamura, lead researcher of the study entitled "Dietary quality among men and women in 187 countries in 1990 and 2010: a systematic assessment" (2015).

[24] WHO, "Non-communicable diseases", fact sheet, January 2015.

[25] Fumiaki Imamura and others, "Dietary quality among men and women in 187 countries in 1990 and 2010: a systematic assessment", *The Lancet Global Health*, vol. 3, No. 3 (March 2015).

project estimates that approximately 34,000 cancer deaths per year worldwide are attributable to diets high in processed meat.[26]

27. Worldwide data suggest that average sodium and sugar consumption is well above minimal physiological needs. Processed food consumers unknowingly consume three to five times more sodium than required, which is particularly troubling when such foods target children. For example, a global study conducted in 2015 reviewed 387 popular children's meals and found sodium levels to be dangerously high.[27] Similarly, over the past 50 years, global sugar consumption has more than tripled, particularly in the form of sweetened beverages.[28]

28. There are also concerns that pesticides and additives in food may contain endocrine-disrupting chemicals. While this requires further research, it is suspected that such chemicals are associated with abnormal growth patterns and neurodevelopmental delays in children and may also increase susceptibility to non-communicable diseases.[29]

D. Trade liberalization and foreign direct investment

29. Trade liberalization and foreign direct investment (FDI) by transnational corporations in the processed food industry have played a large role in increasing the availability of ultraprocessed foods on the global market.[30] The removal of policies to protect domestic markets has strongly affected the increase in production of certain unhealthy foods, as well as their availability and cost. Countries that embrace market deregulation experience a faster increase in unhealthy food consumption.[31]

30. Trade liberalization has also allowed transnational corporations to gain influence on the global food supply chain and, in turn, on food systems. They have obtained control over agricultural production, processing, retailing, advertising and food imports and exports. By investing in technology used in the processed food industry, for example agrochemicals and hybrid seeds, extraction technology used in food processing, and additives to increase the shelf life of food products, large-scale food production achieves substantially lower costs while increasing profit margins.

31. FDI is playing a significant role in the "nutrition transition". The food processing industry is now the largest recipient of FDI, particularly in support of energy-dense, nutrient-poor foods. FDI allows companies to become transnational by purchasing or investing in "foreign affiliates" located in other countries, which then produce food for the domestic markets. This allows the foreign-based company to bypass import tariffs and lowers transportation and production costs. By flooding

[26] WHO, "Q&A on the carcinogenicity of the consumption of red meat and processed meat", October 2015. Available from www.who.int/features/qa/cancer-red-meat/en/.

[27] World Action on Salt and Health, "New international study reveals dangerously high levels of salt in children's meals and calls for global action now", 18 August 2015. Available from www.worldactiononsalt.com/less/surveys/2015/Children's%20Meals%20Survey/160652.html.

[28] Dylan Neel, "The sugar dilemma", *Harvard College Global Health Review* (October 2012).

[29] WHO, "Children's environmental health: endocrine disrupting chemicals" (2016). Available from www.who.int/ceh/risks/cehemerging2/en.

[30] Eddy Lee, "Trade liberalization and employment", DESA Working Paper No. 5 (New York, October 2005).

[31] A/HRC/26/31, para. 7.

markets with cheap refined grains, corn sweeteners and vegetable oil. FDI has become a driving force behind rising obesity rates in developing countries.[32]

E. Aggressive marketing

32. The level and effect of investment by the food industry in the marketing of unhealthy food products is startling. Persistent advertising campaigns, discount offers, exclusive contracts with food outlets and pricing and packaging strategies are all used to drive demand.

33. "Junk food" companies tend to use tactics similar to those used by tobacco companies in the 1980s, when science began linking smoking to serious health problems. Some companies even fund scientific research, manipulating results in support of their products, or add minimal amounts of healthy ingredients to enable them to present their products as "healthy".

34. Marketing strategies are particularly harmful when they target untapped markets in developing nations, a spillover from the "saturation" of markets in developed countries. The effect of introducing fast food on the diet quality of poorer populations is especially dangerous when there is a lack of knowledge or education and where individuals are vulnerable to manipulative marketing practices.[33] If left uncontrolled, undernutrition in lower-income countries will be rapidly eclipsed by obesity and non-communicable diseases, as is already the case in China, India and many middle-income countries.[23]

F. Product-based approaches to malnutrition

35. Nutrition policies should be multidimensional and avoid promoting isolated interventions to fight malnutrition, including "medicalized" and product-based approaches focusing on ready-to-use therapeutic foods. Such measures have been criticized as unsustainable "technical" solutions to social problems. Fortified foods are often too expensive for or unavailable to those most affected by micronutrient deficiencies. Such initiatives can also undermine dietary diversity, have a negative impact on healthy eating practices and adversely affect small-scale local producers by moving away from culturally appropriate, affordable and sustainable food sources. Excessive reliance on product-based solutions, for example nutrient pills and other methods of food fortification, also has adverse health implications, especially if they are highly processed. Even biofortification, which seeks to deliver

[32] Ibid., paras. 6-8; Corinna Hawkes, Delia Grace and Anne Marie Thow, "Trade liberalization, food, nutrition and health", in *Trade and Health: Towards Building a National Strategy*, Richard Smith and others, eds. (Geneva, WHO, 2015); Anna K. Sims, "Obesity prevention: assessing the role of State and non-State actors under international law", *Chicago Journal of International Law*, vol. 16, No. 1 (summer 2015); Anne Marie Thow and Benn McGrady, "Protecting policy space for public health nutrition in an era of international investment agreements", *Bulletin of the World Health Organization*, vol. 92, No. 2 (February 2014); Corinna Hawkes, "The role of foreign direct investment in the nutrition transition", *Public Health Nutrition*, vol. 8, No. 4 (June 2005); FAO, "Globalization of food systems in developing countries: impact on food security and nutrition", FAO Food and Nutrition Paper No. 83 (Rome, 2004).

[33] Judith Hodge, *The Future of Global Relations: Food Fortification — A "Techno-Fix" or a Sustainable Solution to Fight Hidden Hunger?* (Bonn, Deutsche Welthungerhilfe and Terre des Hommes Deutschland, 2014); A/HRC/26/31, para. 10.

naturally fortified foods, may turn out to be another "technical fix" for the problem of hidden hunger.[33]

36. Such initiatives are particularly concerning because the private sector can advocate food supplements so effectively.[34] For example, commercialization of such products as ready-to-use-therapeutic foods, branded with the logos of transnational companies, may also increase consumers' brand loyalty to a company's unhealthy soft drinks and snack foods.[33] Furthermore, many businesses involved in fortified products are the same multinationals violating the International Code of Marketing of Breast-milk Substitutes.

37. Nevertheless, fortification initiatives do make an important contribution to efforts to achieve food and nutrition security, provided they form part of a comprehensive strategy that addresses the social, economic and cultural determinants of food systems. Such solutions must always be critically evaluated and narrowly implemented to ensure that they are used only to provide temporary relief and do not replace long-term solutions, such as diversification of agriculture, or interfere with local production systems.[35]

III. Global nutrition governance

38. To respond to universal malnutrition challenges, a coordinated multisectoral policy response is needed at every level. This requires dialogue between all relevant sectors and actors, including nutritionists, development actors, civil society, donors, the private sector and government officials. Furthermore, it is important to establish accountability mechanisms to assess planning, budgeting and the results of nutrition-related interventions.[36]

39. It is also critical to address malnutrition in all its forms as one issue to avoid policy fragmentation. In a recent study among 139 low- and middle-income countries for example, only 39.6 per cent had nutrition policies that addressed all forms of malnutrition, despite facing the effects of a "nutrition transition".[37]

40. At the height of the food price crises in 2008, it was suggested that global governance of nutrition was dysfunctional.[38] Since then, significant initiatives have been undertaken at the global level. Examples include the Scaling Up Nutrition movement and two major campaigns of the Secretary-General: "Every woman, every child" and the Zero Hunger Challenge.

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[34] Flavio Luiz Schieck Valente, "The corporate capture of food and nutrition governance: a threat to human rights and peoples' sovereignty", in *Right to Food and Nutrition Watch 2015: Peoples' Nutrition Is Not a Business* (2015), pp. 17-18.

[35] Andrew Jones and Gebisa Ejeta, "A new global agenda for nutrition and health: the importance of agriculture and food systems", *Bulletin of the World Health Organization*, vol. 94, No. 3 (March 2016).

[36] Second International Conference on Nutrition, Chairs' summary of round table 3 (Governance and accountability for nutrition).

[37] Bruno F. Sunguya and others, "Strong nutrition governance is a key to addressing nutrition transition in low- and middle-income countries: review of countries' nutrition policies", *Nutrition Journal*, vol. 13, June 2014.

[38] *The Lancet Global Health*, "The international nutrition system: fragmented, dysfunctional and desperately in need of reform", press release, 16 January 2008.

A. Mapping the global nutrition governance

41. In 2011 the WHO Global Action Plan for the Prevention and Control of Non-Communicable Diseases initiated action to tackle malnutrition comprehensively, including unbalanced nutrition and obesity. In 2012, the World Health Assembly endorsed six global nutrition targets to improve maternal, infant and young child nutrition by 2025. Commitment to reach those targets was reaffirmed at the Second International Conference on Nutrition, held in Rome in 2014.

42. The Conference is considered a landmark event that brought together the global community to discuss nutrition, acknowledging malnutrition in all its forms. Its outcome document, the Rome Declaration on Nutrition, pledges 10 commitments to action, recognizing the importance of a life-cycle approach to preventing malnutrition, as well as empowering people to make informed food choices. States committed to increasing investment in nutrition and moving towards sustainable food systems. The Framework for Action adopted at the Conference recognizes that effective and coherent nutrition policies require adequate financing and investment, political commitment, systematic public monitoring and accountability processes. It also calls for collaboration across all systems, including food, health, trade, investment, education, social protection, water and sanitation and hygiene.

43. Leaders at the Conference also recognized the importance of integrating their political commitments with the post-2015 development agenda and of anchoring nutrition targets in the Sustainable Development Goals.[39] The Goals have a universal character and cannot be achieved without special attention to nutrition. While Goal 2 explicitly refers to "nutrition" and Goal 3 to non-communicable diseases, nutrition is arguably interwoven within all 17 Goals, as well as 50 indicators.[40]

44. As suggested, the root causes of malnutrition go beyond a lack of sufficient and adequate food, and to combat them requires actions similar to those embedded in a variety of interrelated development goals, including those pertaining to health, access to resources, environmental degradation, climate change and women's empowerment. The Sustainable Development Goals cannot be achieved without special attention to nutrition, and vice versa.

45. On 1 April 2016, following the recommendations of the Conference, the General Assembly proclaimed 2016-2025 the United Nations Decade of Action on Nutrition. The Decade presents a unique opportunity to centralize globally agreed targets, align actors around implementation and address the shortcomings identified in the current nutrition governance system.

B. Shortcomings of the global governance system

46. While ambitious targets have been set to ensure global governance of nutrition, much more is needed to live up to the challenge of sustainability while providing each person with enough food to live a healthy and productive life, as

[39] Second International Conference on Nutrition, Chairs' summary of round table 1 (Nutrition in the post-2015 development agenda).

[40] Standing Committee on Nutrition, "Nutrition and the post-2015 Sustainable Development Goals", policy brief, Geneva, November 2014.

targeted by the Sustainable Development Goals. Several shortcomings within the existing system should be addressed.

47. Despite the potential success of the Goals, nutrition is mentioned in only 1 of the 169 targets, and overweight and obesity are not mentioned. More importantly, whether the Sustainable Development Goal targets have the innovation necessary to ensure a successful shift towards sustainable food systems and provide the framework for global governance of agriculture, food, nutrition and health seems doubtful.[41] In addition, some targets lack the focus necessary to enable effective implementation, or they contribute to several Goals, thereby creating possible conflicts. Action to meet one target could have unintended consequences on others if they are pursued separately. Moreover, the monitoring mechanism for the Goals based on voluntary national reporting and review mechanisms, through the high-level political forum on sustainable development of the General Assembly, may not be effective enough to reach agreed targets. Finally, a major shortcoming is the fact that the human right to adequate food is not specifically articulated in the Goals.

48. Ensuring adequate financing is also a struggle. For example, to reach the World Health Assembly goal on stunting by 2025, a doubling of government funding and a quadrupling of donor spending is necessary.[42] Technical knowledge, political will and efficient accountability systems are needed to reach existing nutrition goals.

49. There are concerns that the accountability system of the Rome Declaration on Nutrition is unclear and that its policies are fragmented. Owing to its multisectoral nature, as well as the long-term impact of malnutrition on human development and invisibility of some of its consequences, accountability is complex. As articulated in Sustainable Development Goal 17, ensuring effective accountability requires a clear understanding of data collection as well as systematic tracking systems at both the country and global levels. The *Global Nutrition Report 2016* attempts to fill the gap by providing a data tracking system, drawing data from United Nations agencies. Although this might lead to criticism owing to its connection with the nutrition industry, it is arguably the most independent mechanism to date.

C. Private sector involvement and conflict of interest

50. Today's nutrition governance also lacks effective mechanisms to regulate private sector involvement in nutrition programmes. The corporate influence on national and international food and nutrition policy spaces has become increasingly visible as programmes seek multi-stakeholder arrangements. Both the Sustainable Development Goals and the Second International Conference on Nutrition mention the importance of "multi-stakeholder partnerships" with private sector participation.

51. While recognizing that companies play a big role in fighting malnutrition, there is a danger in giving corporations unprecedented access to policymaking

[41] Corinna Hawkes and Barry M. Popkin, "Can the Sustainable Development Goals reduce the burden of nutrition-related non-communicable diseases without truly addressing major food system reforms?", *BMC Medicine*, vol. 13, June 2015.

[42] Lawrence Haddad, "The global governance of nutrition: why it matters", 25 February 2016. Available from www.developmenthorizons.com/2016/02/the-global-governance-of-nutrition-why.html.

processes, which may produce conflicts of interest at several levels unless governed properly. It has been questioned whether nutrition policies can deliver both short-term financial returns for companies and long-term social and health benefits that help to effectively tackle global malnutrition challenges.[43] Adequate safeguards are thus needed to ensure that the private sector does not use its position as a "stakeholder" to influence public policymaking spaces on nutrition to promote commercial objectives.[43]

1. Public-private partnerships

52. The private sector has significantly exerted its influence over nutrition governance through public-private partnerships, which may blur the line between public interest and financial gain. Involvement by the private sector may be driven by direct financial returns, such as tax breaks, market penetration and positive public relations, as well as increased corporate influence in nutritional policymaking.

53. Limited guidelines exist on how to manage such partnerships. They may be useful where public sector solutions are not available or effective, and the private sector may have an important role to play in driving innovation to reduce malnutrition. To avoid conflicts of interest, it is important to assess whether the private sector's activities are compatible with the goal of reducing malnutrition. Actions motivated by profit seeking alone should be discouraged. A memorandum of understanding or legal contract that lays out specifies objectives to avoid and resolve conflict of interest and ensure effective and transparent monitoring can help to manage such partnerships.[44]

54. In 2010, the Scaling Up Nutrition movement, a new type of multi-stakeholder and multisectoral partnership, was launched by the Secretary-General together with donors, businesses, researchers, Governments and civil society to provide support to 57 Member States to improve food policies during the first 1,000 days of child feeding. While the movement's goals are welcomed and have seen success in reducing child malnutrition in several countries, especially in increased funding, capacity-building, advocacy and establishing a civil society network and coordinating with the United Nations, the initiative has also been subject to criticism. As a self-described "movement", it has no accountability to the United Nations or other intergovernmental body or process. While business partnerships are promoted, there is no careful management of corporate involvement to ensure that it is confined to implementation, without influencing public health and nutrition policymaking. Conflicts of interest have also been identified where businesses involved in the initiative were simultaneously marketing foods leading to obesity and non-communicable diseases. While efforts were recently made, for example by excluding infant formula manufacturers that violate the International Code of Marketing of Breast-milk Substitutes, it remains unclear as to how the initiative prevents companies from gaining improper access to markets and policymaking, or how violations are detected and evaluated.[44]

[43] Vivica I. Kraak and others, "Balancing the benefits and risks of public-private partnerships to address the global double burden of malnutrition", *Public Health Nutrition*, vol. 15, No. 3 (March 2012).

[44] John Hoddinott, Stuart Gillespie and Sivan Yosef, "Public-private partnerships and the reduction of undernutrition in developing countries", IFPRI Discussion Paper No. 01487 (Washington, D.C., International Food Policy Research Institute, 2015).

2. Philanthropic organizations

55. Increasingly, philanthropic foundations are investing in global nutrition initiatives. While donations are difficult to track, such private institutions are generally larger than many Governments and have the ability to influence nutrition policies without the concomitant obligations to ensure respect for human rights.[45] Recognizing the financial constraints faced by many countries, it is imperative to establish a monitoring and accountability system to ensure that private foundations operate within the human rights system, rather than fulfilling this responsibility on a voluntary basis.

56. The Global Alliance for Improved Nutrition is one of the leading private networks focusing on malnutrition reduction, mainly through fortification, supported largely by the Bill and Melinda Gates Foundation. Several allegations of conflict of interest have been made against the Alliance. In particular, organizations working to address infant malnutrition questioned whether its work was motivated primarily by efforts to open new markets for its members. An effective, independent evaluation mechanism is needed for balancing private sector involvement in nutrition policies.

IV. Human rights approach and State responsibility

A. Normative foundation of human rights

57. International law instruments provide a normative and legal foundation for the human right to adequate food and nutrition. Article 25 of the Universal Declaration of Human Rights and article 11 of the International Covenant on Economic, Social and Cultural Rights recognize the right to adequate food and the fundamental right of everyone to be free from hunger. Dealing with global nutrition challenges through a rights-based perspective is not only desirable but also obligatory, given that nutrition is an inherent element of the right to food. In its general comment No. 12, the Committee on Economic, Social and Cultural Rights interpreted the right to food as obliging every State to "ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger".

58. The clear inclusion of a nutrition dimension to the right to food confirms the latter's interconnection with the right to health. In fact, nutrition is considered as the vital link between the right to health and the right to food and ensures that the human rights framework promotes both rights.[46] In its general comment No. 14, the Committee on Economic, Cultural and Social Rights affirmed that the right to health placed a core obligation on States to "ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone". This implies that if nutritious food is not readily available, accessible or

[45] David McCoy, Sudeep Chand and Devi Sridhar, "Global health funding: how much, where it comes from and where it goes", *Health Policy and Planning*, vol. 24, No. 6 (November 2009).

[46] Emilie K. Aguirre, "The importance of the right to food for achieving global health", *Global Health Governance*, vol. IX, No. 1 (spring/fall 2015).

affordable, the enjoyment of the highest attainable standard of physical and mental health cannot be met.[47]

59. The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security also recognize that State obligations to ensure the right to food include responsibilities towards ensuring standards of nutrition and health. In the Guidelines, it is noted that "States should take measures to maintain, adapt or strengthen dietary diversity and healthy eating habits and food preparation, as well as feeding patterns, including breastfeeding, while ensuring that changes in availability and access to food supply do not negatively affect dietary composition and intake".[48]

60. A relatively new proposal, the draft Framework Convention on Global Health, suggests that the right to adequate food should be interpreted to mean the right to a standard of nutritional quality and not just the right to a caloric minimum.[46]

61. Several international conferences under United Nations auspices have consolidated international law by recognizing nutrition and health within the context of the human right to food. As early as 1992, the World Declaration on Nutrition of the First International Conference on Nutrition referred to the Universal Declaration of Human Rights and the right to food, with States committing to ensure "sustained nutritional well-being for all people". The Rome Declaration on World Food Security, adopted in 1996, reiterated "the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger". This was reaffirmed at the Second International Conference on Nutrition, in 2014.

62. While nutrition support in the past was often considered charitable action, it is increasingly regarded as a result of a failure to protect an essential human right, attributed largely to a lack of sufficient nutrition governance and accountability. Applying a human rights-based approach to nutrition facilitates the implementation of procedural rights, such as participation, accountability, non-discrimination and transparency. The Second International Conference on Nutrition confirmed that embedding nutrition in a human rights agenda made issues of governance and accountability central to effective implementation.

63. Access to nutritious food is often a key indicator of socioeconomic inequalities. Discussing nutrition within a rights-based framework is critical to ensuring that marginalized and vulnerable populations disproportionately affected by malnutrition are guaranteed a certain level of nutrition and health, rather than a minimum number of calories needed for survival. Such recognition is crucial for the reduction of nutritional and health inequalities around the world.[46]

64. Children and pregnant and lactating women enjoy even further protections. The Convention on the Rights of the Child confirms that, to ensure the full implementation of a child's right to enjoy the highest attainable standard of health, States must take appropriate measures to combat disease and malnutrition through, inter alia, the provision of "adequate nutritious foods" (art. 24 (2) (c)) and that in case of need they must provide material assistance and support programmes, including with regard to nutrition (art. 27 (3)). The Convention also calls for the protection and promotion of exclusive breastfeeding for infants up to 6 months of

[47] Sims, "Obesity prevention" (see footnote 32).

[48] Guideline 10.1.

age, and for breastfeeding to continue alongside appropriate complementary foods preferably until 2 years of age.[49]

65. The protection and promotion of breastfeeding is also enshrined in the International Code of Marketing of Breast-milk Substitutes, adopted by the World Health Assembly in 1981. The Global Strategy for Infant and Young Child Feeding, adopted in 2002, sets out the obligations of States to develop, implement, monitor and evaluate comprehensive national policies addressing infant and young child feeding, accompanied by a detailed action plan.

66. Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women obliges States to ensure appropriate services during pregnancy and lactation. Unfortunately, it fails to protect a woman's individual right to adequate food and nutrition beyond the parameters of pregnancy and breastfeeding. Considering their increased sensitivity to malnutrition, it is vitally important to ensure this right.

B. Corporate responsibility

67. Placing nutrition governance within the human rights framework also underlines the responsibility of corporations in the food and nutrition industry to respect human rights and to contribute to equitable access to nutritious foods. Such responsibility is implied in the Universal Declaration of Human Rights, which underlines that "everyone has duties to the community" (art. 29) and that groups and persons must refrain from activities causing encroachment on the rights enshrined in the Declaration (art. 30).

68. The Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011, formally recognize the responsibility of enterprises to avoid infringing on the human rights of others and to address adverse human rights impacts with which they are involved.[50] Logically, this responsibility includes the adverse impacts of the food industry with respect to the right to adequate food.

69. In the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age (A/HRC/27/31) Member States are urged to regulate private actors over which they exercise control, including producers and marketers of breast milk substitutes and other relevant companies (para. 70 (g)). The Committee on the Rights of the Child, in its general comment No. 15, also calls upon private companies to comply with the International Code of Marketing of Breast-milk Substitutes and relevant World Health Assembly resolutions. In its most recent resolution on ending inappropriate promotion of foods for infants and young children, adopted in May 2016, the World Health Assembly called upon manufacturers and distributors of foods for infants and young children to end all forms of inappropriate promotion.

[49] See general comment No. 15 of the Committee on the Rights of the Child. Through their mention in that general comment, both the Global Strategy for Infant and Young Child Feeding and the International Code of Marketing of Breast-milk Substitutes have been integrated into the international human rights system.

[50] Principle 11.

70. Those efforts indicate that business has a responsibility to protect the right to adequate food and nutrition, especially with regard to children. Yet in practice it can be difficult to hold companies to account, especially in cross-border cases involving complex corporate structures. In this regard, home States have extraterritorial obligations to seek to prevent and address human rights abuses abroad by companies domiciled within their jurisdictions. For example, if a host country is unwilling to hold a company responsible, or even provides tax-free or other incentives, the home country of the enterprise should exercise extraterritorial responsibility.

71. The Guiding Principles underline that the responsibility of companies to respect human rights exists independently of the abilities and/or willingness of States to fulfil human rights obligations, and hence to prevent them from taking advantage of weak legislative environments. However, ensuring accountability and access to effective remedies for victims remains a major challenge.[51]

72. While international human rights law lays the foundations for responsible corporate behaviour, food corporations have vehemently opposed calls to regulate marketing. Instead, many have promoted voluntary commitments on labelling and advertising or have sponsored nutrition and health education programmes as part of their "corporate social responsibility".[52] The latter is particularly concerning, blurring the lines between education and marketing, and potentially allowing companies to disseminate misleading information.[53]

73. Recent initiatives, such as a 2014 high-level commission on ending childhood obesity and recommendations towards a global convention to protect and promote healthy diets by the World Obesity Federation and Consumers International, as well as Global Nutrition Reports, indicate the need for stronger accountability mechanisms at the national level, considering that voluntary corporate initiatives are proving ineffective.

C. State responsibility to ensure monitoring, accountability and transparency

74. In its general comment No. 12, the Committee on Economic, Social and Cultural Rights views the right to adequate food to imply food "free from adverse substances" (para. 8), which "sets requirements for food safety and for a range of protective measures by both public and private means ... at different stages throughout the food chain" (para. 10). Considering the adverse health impacts, "food safety" should be interpreted to include the nutritional value of food products.

75. The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security also encourage States to take steps to prevent overconsumption and unbalanced diets that may lead to malnutrition, obesity and degenerative diseases.[54] Many States are taking steps in

[51] See also the report of the United Nations High Commissioner for Human Rights on improving accountability and access to remedy for victims of business-related human rights abuse (A/HRC/32/19).

[52] Patti Rundall, "The 'business of malnutrition': the perfect public relations cover for Big Food", in *Right to Food and Nutrition Watch 2015: People's Nutrition Is Not a Business* (2015), p. 23.

[53] Baby Milk Action, "Tackling obesity: how companies use education to build 'trust'".

[54] Guideline 10.2.

the right direction to regulate the food industry, including through labelling initiatives, advertising restrictions and economic measures.

1. Regulatory measures

76. Nutrition labels allow people to make informed decisions on their food options and incentivizes food manufacturers to reformulate their products to target health-conscious consumers. Many countries have mandatory nutrient lists on pre-packaged foods, and some have gone further to implement creative schemes to alert consumers about foods that undermine their nutritional welfare. For example, Australia has adopted a voluntary "health star rating" that rates foods from least to most healthy; Chile has food labels with a "stop sign" warning message when calorie, saturated fat, sugar or sodium limits have been exceeded; and Ecuador requires packaged foods to carry a "traffic light" label indicating fats, sugar and salt by colour. Denmark, Iceland, Norway and Sweden use a voluntary keyhole-shaped logo to flag products containing less fat, salt and sugar, while Finland uses a heart-shaped symbol to indicate which products are better options in terms of sodium content.

77. Some countries, such as Australia, the Republic of Korea and the United States, require restaurant chains to include information on energy and nutrient content or warning labels on sodium content. Clear standards are also needed on the use of nutrition and health claims to prevent consumers from being misled. In the United States, public demand for increased transparency has led to several attempts to implement mandatory-labelling schemes for genetically engineered foods.

78. Although WHO has recommended that the private sector adopt evidence-based "responsible marketing", and despite some positive initiatives as described above, ensuring informative labelling is still an uphill battle for nutrition and health advocates.[55]

79. Advertisements influence people's food preferences and habits. Recognizing that children are especially exposed to aggressive marketing and promotion strategies by food and beverage companies, some States prohibit media advertising to children for certain "restricted" food and drink products. In Chile, for example, where children form more than 20 per cent of the audience, mandatory regulations restrict advertising to children under 14, while Taiwan Province of China bans the advertising of restricted foods on channels dedicated to children, levying fines for violations of its regulations. Brazil imposes strict regulations, prohibiting any "abusive publicity" and strategies that appeal directly to children and adolescents. In practice, however, there seem to be many difficulties in implementing such restrictions.

80. To encourage increased consumption of healthy foods by children, some countries have implemented vegetable and fruit programmes at schools, imposed mandatory prohibitions on serving foods classified as unhealthy, and banned vending machines. Poland recently banned the sale of foods high in sugar, salt and fat in all schools, and Mexico introduced a similar ban in 2010. Other initiatives include implementing "green food zones" prohibiting the sale of fast food within the

[55] Sims, "Obesity prevention" (see footnote 32); George Kimbrell and Aurora Paulson, "The constitutionality of State-mandated labelling for genetically engineered foods: a definitive defence", *Vermont Law Review*, vol. 39, No. 2 (winter 2014).

immediate vicinity of schools and banning advertising and promotion of foods that do not meet certain nutrition standards.

2. Breast milk substitutes and baby food

81. Global sales of breast milk substitutes total $44.8 billion and are expected to rise to $70.6 billion by 2019.[56] The International Code of Marketing of Breast-milk Substitutes places restrictions on the sale of such substitutes, through prohibiting public advertising, provision of free samples or promotion in health-care facilities. It also requires all information on artificial feeding to explain the benefits of breastfeeding and the hazards associated with artificial feeding. Although some progress has been achieved, violations of the Code are widespread and only 39 countries have laws enacting all provisions.

82. Since 2011, Armenia, Bolivia (Plurinational State of), Kenya, Kuwait, South Africa and Viet Nam have adopted comprehensive measures to incorporate all of the International Code provisions, sometimes even going beyond its minimum standards. The proportion of countries with comprehensive legislation on the Code is highest in South-East Asia, followed by Africa and the Eastern Mediterranean, while the Americas, Western Pacific and European regions have the lowest proportions.

83. Much remains to be done to end the inappropriate marketing of breast milk substitutes, and countries are encouraged to adopt, amend and strengthen legal measures in line with the International Code and relevant World Health Assembly resolutions. In particular, it is necessary to ensure that national legislation adequately covers substitute products aimed at children older than 12 months.

3. Economic measures

84. Taxes on poor nutritional foods can also deter consumers. Norway has taxed sugar, chocolate and sugary drinks since 1981, and many countries have followed suit. Denmark taxes food containing saturated fat, Hungary imposes a "public health tax" on the salt, sugar and caffeine content of various categories of ready-to-eat foods, and in the United States, 33 states have issued some form of food tax. In the Navajo Nation for instance, a tax is levied on food items with minimal to no nutritional value.

85. Various countries have also taxed beverages that contain high levels of sugar or other sweeteners. While in some countries the revenue goes directly to the general budget or to the health sector, others use such funds for specific nutrition- and health-related projects. For example, Mexico uses revenue to finance programmes addressing malnutrition and obesity-related diseases, and the Navajo Nation earmarks tax revenues for such projects as farming, healthy convenience stores and health classes.

86. Raising tariffs on imported foods and drinks classified as "unhealthy" are another tool, used for example by the Cook Islands, Fiji, French Polynesia, Nauru and Samoa. Others have lowered import tariffs on "healthy" foods that are not procured locally. Targeted subsidies or price discounts can also enable people on

[56] WHO, UNICEF and International Baby Food Action Network, *Marketing of Breast-Milk Substitutes: National Implementation of the International Code — Status Report 2016* (Geneva, 2016), p. 7.

low incomes to afford healthier food options. In the United Kingdom of Great Britain and Northern Ireland, for example, low-income pregnant women and families receive vouchers to buy dairy and vegetables, and in the United States, the Supplemental Nutrition Assistance Program gives incentives to spend on fruits and vegetables.

87. Taxation, import restrictions, subsidies and labelling initiatives may, however, be scrutinized for violation of trade agreements. They may also give rise to debates as to whether such governance tools intrude unreasonably on personal and individual freedoms and differing cultural understandings of "nutrition".[57]

4. Behavioural changes, education and dietary guidelines

88. States have recognized the importance of nutrition education, making it mandatory within school curricula or providing education programmes targeting cities, workplaces and food providers. Some have initiated campaigns for healthier diets, provide nutrition advice for at-risk individuals or publish food-based dietary guidelines recommending a balanced diet. Dietary guidelines should guide not only consumer choices but also policy choices. Such initiatives should be culturally sensitive and based on scientific evidence. Brazil's revised dietary guidelines of 2014 are a good example, as they are comprehensive, take cultural dimensions into account and promote the consumption of minimally processed foods while encouraging sustainable food systems.

5. Influencing the food supply

89. Some countries have understood the need for more systemic changes to improve the nutritional quality of food products available on the market. Overall improvements can be achieved through dialogue with the food industry to reformulate food products by setting targets to reduce salt and fats, eliminate trans-fats and make products less energy dense, or put a cap on portion size. Good examples include schemes to collaborate with food suppliers to provide healthier ingredients for public entities serving food, or requirements that a certain percentage of food products be sourced from agroecological farms. Other initiatives focus on improving the accessibility of healthy foods at retail outlets, for example by providing incentives to set up "healthy" food enterprises in deprived neighbourhoods or placing planning restrictions on fast food outlets.

90. While the above-mentioned examples are positive indications, national policies are often fragmented, and it is crucial to go further to encourage States to implement comprehensive plans to combat malnutrition in all its forms.

91. Several helpful initiatives exist to assist policymakers in ensuring nutrition accountability. For example, the WHO global database on the implementation of nutrition action set forth national policy actions and strategies to eliminate all forms of malnutrition. Similarly, the International Network for Food and Obesity/Non-Communicable Diseases Research, Monitoring and Action Support (INFORMAS), an international collaboration of universities and global non-governmental organizations, seeks to monitor, benchmark and support actions

[57] David Adam Friedman, "Public health regulation and the limits of paternalism", *Connecticut Law Review*, vol. 46, No. 5 (July 2014); Katherine Pratt, "The limits of anti-obesity public heath paternalism: another view", *Connecticut Law Review*, vol. 46, No. 5 (July 2014).

to create healthy food environments and reduce diet-related non-communicable diseases. It uses the healthy food environment policy index to monitor government actions. While currently at the pilot-testing stage, such tools will assist civil society in holding Governments and the food industry to greater account for creating healthier food environments.[58] The Nourishing Framework, created by World Cancer Research Fund International, is an interactive tool to promote healthy diets, allowing a selection and tailoring of policy options for different populations.[59] Finally, WHO regional offices have developed regional nutrient profiling models, which can be used in policymaking to improve the overall nutritional quality of diets.

6. Making food systems "nutrition sensitive"

92. **To promote meaningful change, actions must also be directed at the food system level to make it more "nutrition sensitive". It is imperative that global food systems move away from agro-industrial production methods that are responsible for dietary monotony and reliance on ultraprocessed food and beverages towards a system that supports food sovereignty, small-scale producers and local markets, based on ecological balance, agro-biodiversity and traditional practices. Food sovereignty allows peoples to define their own policies and strategies for sustainable production, distribution and consumption of food. Globally, the majority of food is supplied by local farmers. Therefore, efforts to combat malnutrition should support smallholder farmers and promote nutrition-sensitive production. Agroecology ensures food and nutrition security without compromising the economic, social and environmental needs of future generations.[60] It focuses on maintaining productive agriculture that sustains yields and optimizes the use of local resources while minimizing the negative environmental and socioeconomic impacts of modern technologies.[61] It is imperative to support ambitious research initiatives to establish the scientific basis for claiming that agroecology is capable of nutrition-sensitive production while promoting local livelihoods and the environment.**

V. Conclusion and recommendations

93. **To successfully combat universal malnutrition in all its forms, including the negative effects of the "nutrition transition", the first step is recognizing nutrition as an essential component of the human right to adequate food, reinforced by monitoring, accountability and transparency mechanisms.**

94. **The United Nations Decade of Action on Nutrition, proclaimed in April 2016, could be an effective vehicle to strengthen implementation of existing nutrition commitments. However, the United Nations and the international community need to address existing flaws within the global governance system, especially the weakness of implementation and accountability. The General Assembly has called upon the World Health Organization and the Food and**

[58] See http://globalnutritionreport.org/files/2014/11/gnr14_pn4g_13swinburn.pdf.
[59] See www.wcrf.org/int/policy/nourishing-framework.
[60] High-level Panel of Experts on Food Security and Nutrition, "Food losses and waste in the context of sustainable food systems", June 2014, A/HRC/16/49.
[61] See A/70/287, sect. IX.

Agriculture Organization of the United Nations to lead the implementation of the Decade, recommending that multi-stakeholder platforms such as the Committee on World Food Security and the Standing Committee on Nutrition be entrusted with coordinating oversight. Recognizing legitimate concerns about the influence of private interests on nutrition policymaking, a participatory process is particularly important. This makes it imperative to protect open spaces to ensure that policy formulation is consistent with the public good, which may require the empowerment of civil society.

95. Such a system must include safeguards against potential negative influences of market forces and powerful economic actors in the food and nutrition industries with respect to the human right to adequate food and nutrition, and promoting a system to manage conflicts of interest that arise from private sector involvement in nutrition initiatives.

96. While certain States have taken encouraging steps, most national systems to combat malnutrition are fragmented and lack effective action, evaluation and accountability mechanisms. It is imperative that responses move away from isolated interventions and "medicalized" approaches to fighting malnutrition. In line with their obligations under the international human rights system, States must acknowledge the underlying causes of malnutrition and develop multisectoral approaches to coordinate nutrition policies with health, housing, water and sanitation, social protection, poverty and inequality reduction initiatives. Moreover, it must be recognized that, to effectively combat malnutrition, women's rights should be at the forefront.

97. Recognizing that industry self-regulation is ineffective, Governments should impose strong regulatory systems to ensure that the food industry does not violate citizens' human rights to adequate food and nutrition. It is recognized, however, that such efforts may face formidable resistance from a food industry seeking to protect its economic interests.

98. A holistic approach to nutrition requires national policymakers to create an environment conducive to nutritious, healthy diets, including through education, and dietary guidelines. Finally, a comprehensive approach should encourage adjustments in food supply and changes in food systems to increase the availability and accessibility of healthier food that is both sustainable and nutrition sensitive.

99. With a view to respecting, protecting and fulfilling the right to adequate food and nutrition, the Special Rapporteur recommends that:

(a) Member States embrace the United Nations Decade of Action on Nutrition as an opportunity to achieve ambitious nutrition targets and ensuring the right of every individual to adequate food and nutrition, especially the people who most need it. To this end, United Nations agencies and programmes should establish coordinated, effective monitoring and accountability mechanisms to implement the multitude of existing nutrition targets in ways that are coherent, harmonized, mutually reinforcing and overcoming gaps, together with clear timelines, funding and indicators to assess progress;

(b) The Committee on World Food Security, as recommended by the General Assembly, ensure the participation of all partners during the Decade, in particular rights holders and representatives of vulnerable groups,

Affirmative measures should be adopted to ensure a "level playing field" allowing civil society to play active roles in discussions and negotiations;

(c) International regulations be implemented to curb the unchecked actions of powerful economic actors that have lately been flooding global markets with junk food. In this regard, negotiations within the Human Rights Council to establish a legally binding instrument to regulate the activities of transnational corporations are greatly welcomed;

(d) The Guiding Principles on Business and Human Rights be implemented to ensure corporate responsibility of the food and nutrition industry and enforce the rights of victims to redress human rights violations, including cross-border cases;

(e) Internationally agreed guidelines on how to manage public-private partnership and monitor accountability be established, based on independent assessments of the impact of commercial sector engagement in nutrition;

(f) International trade and investment agreements be re-evaluated to ensure that they do not undermine health and nutrition policies. For example, food taxes, tariffs and other market restrictions or incentives that justifiably form part of national nutrition policies should be exempt from World Trade Organization rules and should not lead to penalties for violating trade agreements;

(g) States be encouraged to use existing tools established by the United Nations, as well as by non-governmental organizations and academic networks, to create a "national master plan for nutrition" with a time frame and budgetary targets specifically tailored to meet domestic needs;

(h) States ensure the political and financial commitments needed to shift from current industrial agricultural systems to nutrition-sensitive agroecology that is healthy for people and sustainable for the planet;

(i) States adopt an initiative similar to the WHO Framework Convention on Tobacco Control to regulate the food and beverage industry and protect individuals from the negative health and nutrition effects of highly processed foods;

(j) Recognizing the particular vulnerability of women to malnutrition, the international human rights framework protect women's right to adequate food and nutrition, beyond pregnancy and breastfeeding;

(k) The empowerment of women be firmly embedded within nutrition strategies, for example by providing paid maternity leave, social recognition of unpaid work, prevention of early and forced marriages and protection of women's sexual and reproductive rights;

(l) All States incorporate the International Code of Marketing of Breast-milk Substitutes in its entirety into their legal systems and ensure adequate monitoring to ensure implementation;

(m) The Human Rights Council endorse the WHO guidance on ending the inappropriate promotion of foods for infants and young children, presented at the World Health Assembly in May 2016.